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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,128	02/26/2004	Sukhdeep S. Hundal	VTX0314-US	1874
36183 7590 03/03/2009 PAUL, HASTINGS, JANOFSKY & WALKER LLP 875 15th Street, NW Washington, DC 20005				
EXAMINER NGUYEN, TUAN HOANG				
ART UNIT 2618		PAPER NUMBER		
MAIL DATE 03/03/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/786,128

**Applicant(s)**

HUNDAL, SUKHDEEP S.

**Examiner**

TUAN H. NGUYEN

**Art Unit**

2618

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 2-20 and 23-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 1 cancelled.
2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 2-20 and 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claims 2, 8, 10, 12, and 13 are recited the limitation "for avoiding interference in a radio communications band during operation of a first RF device employing a first **frequency hopping** spread spectrum protocol, in conjunction with the operation of at least one other RF device employing a different communications protocol, comprising: identifying an interference from the at least one other RF device in the radio communication band; and adjusting the first RF device to avoid overlap with the at least one other device, **wherein hopping frequencies** employed by the first RF device **cluster** in one or more frequency ranges within the radio communications band, **wherein during clustering**, a second frequency range within the radio communications band is not occupied by any channel used by the first RF device, the second frequency range being continuous and having a width corresponding to a plurality of channels capable of transmitting communications of the first RF device" are never mention in the

body of the claim until the end of it. There is insufficient antecedent basis for this limitation in the claims. There are limitation of "cluster" and, "a frequency hopping, but no where in the claim talked about how "hopping frequencies" and "during clustering"... the Applicant is suggest to add limitations for "hopping frequencies" and "during clustering" so that they can claim the step of "wherein hopping frequencies" and "wherein during clustering".

### ***Reasons for Allowance***

5. Claims 21-22 are allowed over the prior art record.
6. The following is an examiner's statement of reasons for allowance:

Claims 2-20 and 23-24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The applicant's remarks, filed on 09/18/2008, have been carefully reviewed with updated search. Consequently, reasons for allowance of claims 21-22 are set forth in according to the applicant's remarks, filed on 01/26/2009 state on pages 13-18.

### ***Conclusion***

7. Any response to this action should be mailed to:

Mail Stop \_\_\_\_\_ (Explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

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Facsimile responses should be faxed to:

(571) 273-8300

Hand-delivered responses should be brought to:

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22313

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Nguyen whose telephone number is (571) 272-8329. The examiner can normally be reached on 8:00Am - 5:00Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maung Nay A. can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan H. Nguyen/  
Examiner  
Art Unit 2618

/Nay A. Maung/  
Supervisory Patent Examiner, Art  
Unit 2618

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